

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PAUL S. KLEIN,

Plaintiff,

v.

B. STROUD et al.,

Defendants.

2:16-cv-00637-JAD-VCF

**ORDER**

**I. DISCUSSION**

On March 23, 2016, Plaintiff submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 but did not submit an application to proceed *in forma pauperis* or pay the filing fee for this action. (ECF No. 1). On March 25, 2016, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee within 30 days from the date of that order. (ECF No. 2).

On April 27, 2016, Plaintiff filed a motion to proceed with the case because Defendants had failed to comply with the Court's order. (ECF No. 4). Alternatively, Plaintiff filed a motion for an extension of time.<sup>1</sup> (ECF No. 3). In the motions, Plaintiff asserts that he had filed a complete application to proceed *in forma pauperis* when he submitted his complaint to this Court. (*Id.* at 2). He asserts that, after receiving this Court's order, he submitted a prison accounting form, attached this Court's order, and mailed it to prison authorities. (*Id.*). Plaintiff asserts that Defendants have failed to provide Plaintiff with the required financial documents. (*Id.*). Plaintiff asks this Court to file his complaint without an application to proceed *in forma pauperis*. (*Id.* at 3).

<sup>1</sup> The two motions are identical. (See ECF No. 3, 4). The Court will cite to ECF No. 3 when addressing the motions.

1 As an initial matter, the Court reiterates that it has never received an application to  
2 proceed *in forma pauperis* from Plaintiff in this case. The Court notes that it is Plaintiff's  
3 responsibility to follow up with prison officials to ensure that he acquires the correct financial  
4 documents in a timely manner. Based on the motions, Plaintiff never followed up with prison  
5 officials about his pending request. Accordingly, the Court denies Plaintiff's motion to proceed  
6 with this case absent a complete application to proceed *in forma pauperis* but grants Plaintiff's  
7 motion for an extension of time. On or before Tuesday, May 31, 2016, Plaintiff shall either file  
8 a complete application to proceed *in forma pauperis* or pay the full filing fee for this case.

9 The Court further notes that Plaintiff is an experienced litigator in this Court and knows  
10 how to correctly file an application to proceed *in forma pauperis* with this Court. Plaintiff will  
11 be granted one final opportunity to file a complete application to proceed *in forma pauperis*,  
12 or in the alternative, pay the full filing fee for this action. If Plaintiff files an incomplete  
13 application to proceed *in forma pauperis* or fails to file an application, the Court will dismiss the  
14 case in its entirety, without prejudice, to file a new case when Plaintiff is able to acquire the  
15 necessary documents to file a complete application to proceed *in forma pauperis*.

## 16 **II. CONCLUSION**

17 For the foregoing reasons, IT IS ORDERED that Plaintiff's motion for an extension of  
18 time (ECF No. 3) is granted.

19 IT IS FURTHER ORDERED that the motion for complaint to proceed (ECF No. 4) is  
20 denied.

21 IT IS FURTHER ORDERED that the Clerk of the Court SHALL SEND Plaintiff the  
22 approved form application to proceed *in forma pauperis* by a prisoner, as well as the document  
23 entitled information and instructions for filing an *in forma pauperis* application.

24 IT IS FURTHER ORDERED that **on or before Tuesday, May 31, 2016**, Plaintiff shall  
25 either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form  
26 with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full  
27 \$400 fee for filing a civil action (which includes the \$350 filing fee and the \$50 administrative  
28 fee).

1 IT IS FURTHER ORDERED that, if Plaintiff files an incomplete application to proceed  
2 *in forma pauperis* or fails to file an application, the Court will dismiss the case, without  
3 prejudice, for Plaintiff to file a new case when he is able to acquire the necessary documents  
4 to file a complete application to proceed *in forma pauperis*.

5 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,  
6 dismissal of this action may result.

7 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF  
8 No. 1), but shall not file it at this time.

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10 DATED: This 3<sup>rd</sup> day of May, 2016.

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14 United States Magistrate Judge  
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